

# ACT No. 65

Regular Session, 2004

SENATE BILL NO. 239

BY SENATOR HOLLIS

## AN ACT

To amend and reenact R.S. 6:969.17, R.S. 9:3529, and R.S. 47:1604.2, relative to certain credit transactions; to provide for the collection of certain fees and charges due to insufficient funds when payment is made by electronic means; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:969.17 is hereby amended and reenacted to read as follows:

§969.17. Charges for checks returned for insufficient funds

The parties in a motor vehicle credit transaction may contract for an additional charge to be assessed if the consumer tenders a check in payment or a payment by electronic means and such check or electronic payment is returned from any bank, savings and loan association, thrift institution, credit union, or any other organization or institution authorized to issue checks, drafts, or similar negotiable instruments or electronic payments, due to insufficient credit or funds in the account for payment of such check or electronic payment in full upon its presentation. The additional charge shall be five percent of the amount of the check or electronic payment, but in no case shall this charge exceed fifteen dollars. Such charge shall be in addition to any delinquency charge assessed under the provisions of R.S. 6:969.15.

Section 2. R.S. 9:3529 is hereby amended and reenacted to read as follows:

§3529. Installment of consumer credit transaction paid by N.S.F. check; additional charge to account

The parties in a consumer credit transaction may contract for an additional charge to be assessed against the consumer's account if the consumer tenders a check or makes an electronic debit in payment on such account and such check or electronic debit is returned from any bank, savings and loan association, thrift institution, or credit union or any other organization or institution authorized by the state of Louisiana or the United States to issue checks, drafts, or similar negotiable instruments or payments by electronic means, due to insufficient credit or funds in the account for payment of such check or electronic payment in full upon its presentation. The additional charge shall not exceed twenty-five dollars or five percent of the amount of the check, whichever is greater. Such charge shall be in addition to any delinquency charge assessed under the provisions of R.S. 9:3527.

Section 3. R.S. 47:1604.2 is hereby amended and reenacted to read as follows:

§1604.2. Insufficient funds check or electronic debit in payment of taxes; penalty

In the event a check or electronic debit used to make payment of a tax, interest, penalty, or fee due under this Subtitle is returned unpaid by the bank on which it is drawn for any reason related to the account on which the check or electronic debit is written, such shall constitute a failure to pay the tax, interest, penalty, or fee due and a specific penalty shall be imposed on the taxpayer in addition to all other penalties provided by law; provided however, upon sufficient proof being furnished to the secretary by the bank that the bank was at fault for the nonpayment of the check or electronic debit, the secretary shall waive the penalty provided for in this Section. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax, interest, penalty, or fee that is due in payment of which the check or electronic debit was given and may be enforced in a separate action or in any action instituted for the collection of the tax, interest, penalty, or fee. The specific penalty imposed under this Section shall be an amount equal to the greater of one percent of the check or electronic debit or twenty

1           dollars. After receipt of three insufficient fund checks **or electronic debits** during  
2           any two-year period, the secretary of the Department of Revenue may require  
3           payment of the taxes, interest, penalties, or fees due by the taxpayer to be paid by  
4           certified check, money order, or cash.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_